

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

SIERRA CLUB,

Plaintiff-Intervenor,

v.

AMEREN MISSOURI,

Defendant.

Civil Action No. 4:11-cv-00077-RWS

**PLAINTIFF UNITED STATES' RESPONSE TO AMEREN'S OCTOBER 29, 2020
STATUS REPORT**

Plaintiff United States of America, acting on behalf of the United States Environmental Protection Agency, opposes Ameren's request for the Court to "relieve it of its obligation to provide status reports every 60 days." ECF No. 1161, at 2.

Ameren's "request" comes not in a motion, but in the final paragraph of its October 29, 2020 status report, which was filed pursuant to the agreement memorialized in the Parties' April 3, 2020 "Joint Submission Pursuant to the Court's March 4, 2020 Order." *See* ECF No. 1156. That agreement was reached after the United States and Sierra Club informed the Court that Ameren's PSD permit application had been deemed incomplete by the Missouri Department of Natural Resources (MDNR), because, *inter alia*, Ameren failed to submit required BACT, modeling, and other preliminary engineering information. *See* ECF Nos. 1149 and 1150. The list

of deficiencies is included in a January 24, 2020 letter from MDNR to Ameren, previously filed as ECF No. 1149-3. In the Joint Submission, Ameren thereafter committed to proceed with engineering efforts “necessary to advance the required PSD application for Rush Island,” and to work with MDNR in doing so. *See* ECF No. 1156, at Section II, Paragraphs (2), (3).

Ameren further agreed to file periodic status reports every 60 days, providing updates of its “progress with MDNR and ... a description of any MDNR requests for information and the status of Ameren’s response.” *Id.* Section II, Paragraph (4).

Although Ameren’s October 29 status report recounts that it has substantially completed its preliminary engineering efforts, it does not identify when Ameren will submit the results of those efforts or other any other information to MDNR to remedy the deficiencies MDNR identified in its PSD permit application, nor the status of any discussions with MDNR concerning those deficiencies.¹ Additional work apparently remains to be done with MDNR, and it is thus premature to consider terminating the requirement for periodic status reports.

Accordingly, the United States respectfully requests that the Court order Ameren to supplement its status report to provide additional details regarding its efforts to remedy the deficiencies identified by MDNR in its PSD application, including discussions with MDNR and any upcoming meetings, submittals, deadlines, or other relevant matters, and deny Ameren’s request to stop providing the Court with status reports, plus grant such other and further relief as the Court deems just and proper.

¹ As Ameren previously represented, the results of its preliminary engineering work will be used for “further specific emission analysis and stack modeling discussions with MDNR” to advance its PSD application. June 30, 2020 Status Report (ECF No. 1159), at 2; *see also* Aug. 31, 2020 status Report (ECF No. 1160), at 2 (representing that “[m]ore detailed technical discussions with MDNR regarding parameters for modeling analysis can occur” upon completion of the preliminary engineering work).

Dated: November 12, 2020

Respectfully Submitted,

BRUCE S. GELBER
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CERTIFICATE OF SERVICE

I hereby certify that on November 12, 2020, I served the foregoing with the Clerk of Court using the CM/ECF system.

/s/ Jason A. Dunn

JASON A. DUNN